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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,069	06/27/2003	K. Scott Weil	12903-B	7459
7590 Douglas E. McKinley, Jr. McKinley Law Office P.O. Box 202 Richland, WA 99352			EXAMINER ECHELMEYER, ALIX ELIZABETH	
			ART UNIT 1795	PAPER NUMBER
			MAIL DATE 06/08/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/609,069

Applicant(s)

WEIL ET AL.

Examiner

Alix Elizabeth Echelmeyer

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-30.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response

1. This Office Action is in response to the Remarks filed March 30, 2009. No claims are amended. Claims 1-21 are pending and are rejected finally for the reasons given below.

2. The grounds of rejection have been changed from the Non-Final mailed September 26, 2008, but the rejection is made final. The grounds of rejection are changed only in that the rejection over Thomas et al. (US 2005/0074659) are removed. As Applicant pointed out on page 2 of the Remarks, the examiner inadvertently maintained the rejection over Thomas et al. even though, as Applicant points out, the limitation which Thomas et al. was used to reject was removed from the claims in the amendment filed July 10, 2008.

The examiner apologizes for this mistake and thanks Applicant for pointing it out.

The rejection below maintains all aspects of the rejection mailed September 26, 2008, except for those grounds of rejection based on Thomas et al. For this reason, the rejection is made final.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 8-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haltiner et al. (US 2003/0235746) in view of Pondo (US 6,017,649).

Haltiner et al. teach a solid oxide fuel cell (SOFC) having sheet metal parts stamped from flat stock (abstract, [0009], [0010]). The parts, including a mounting frame for a positive electrode – electrolyte – negative electrode (PEN) and a separator plate, are used to form modules, or cells (abstract, [0009]). Those modules can then be stacked to form a fuel cell stack (Fig. 7, [0032]). Haltiner et al. also teach the use of current collectors which may be connected across a load (Fig. 3, [0003], [0025]). Glass seals are used between the modules. A glass layer or ceramic adhesive is applied prior to assembly, then the stack is “subjected to high pressure and temperature, whereby the glass seals are liquefied and fused” ([0032]).

Regarding claim 1, the SOFC modules of Haltiner et al. contain a stamped separator plate, a stamped frame, a PEN attached to the frame, and the frame attached to the separator plate. Regarding claims 3 and 17, the SOFC of Haltiner et al. contains current collectors that are in communication with the separator plate. Applicants’ claim 8 is for a method of making a SOFC stack, and claim 13 is a SOFC stack. Haltiner et al. teach the combination of several modules to form a stack as well as the sealing of the modules.

Applicants’ claims 9-12, 14, and 15 are drawn to the method of sealing a SOFC stack and the seal on the SOFC stack. Haltiner et al. teach insulating seals made of

glass or a ceramic. The seal is formed by exposure to high temperature and pressure. Further, Haltiner et al. teach the connection of separator plates and frames by brazing..

With further regard to claims 1 and 13, Haltiner et al. fails to teach the stamped separator plate and frame with displaced outer edges. Instead, Haltiner et al. teach a composite, with the cathode spacer and separator being analogous to the stamped separator plate, and the anode spacer analogous to the frame, but lacking the downwardly displaced outer edge (see Figure 4 of Haltiner et al.).

Pondo teaches multiple step manifolds for the fuel and oxidant streams (column 2 line 66 - column 3 line 9). A fuel cell assembly is seen in Figure 3B of Pondo. Pondo teaches that the upward and downward bends of the plates make for a better seal in the manifolds as well as better integrity of the plates, and the resultant fuel cell can tolerate greater stack pressures (column 3 lines 1-6). Pondo further teaches that the bent pieces may be made by stamping sheet metal (column 6 lines 51-57).

It would be advantageous to make the separator plate of Haltiner et al., with the cathode spacer, into one piece such as seen in the separator plate of Haltiner et al. (as seen in Figure 3B, for example), with an upward bend at the manifold, wince such a configuration would make a better seal and increase the strength and integrity of the fuel cell. Further, such a bent configuration would be advantageous to use with the anode spacer of Haltiner et al., such as seen in the bottom separator of Pondo (Figure 3B), since it would provide a better seal since it would meet with the bent part of the separator in the cell below, through which the fuel would have to pass.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the cathode spacer and separator of Haltiner et al. into a single piece that is bent upwardly, such as in Pondo, and to make the anode spacer, or frame, into a piece that is bent downwardly so as to form a seal with the adjacent separator of the cell below.

5. Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haltiner et al. in view of Pondo as applied to claims 1 and 13, above and in further view of Carolan et al. (US Patent Number 5,750,279).

The teachings of Haltiner et al. and Pondo as discussed above are incorporated herein.

Haltiner et al. in view of Pondo teach a fuel cell stack and the method of making it wherein the stack is made up of modules. The modules are formed by frames containing a PEN, which are connected to separator plates. Haltiner et al. fails to teach the use of 400 series stainless steel as the material for the frames and separators.

Carolan et al. teach that stainless steel (400 series) is suitable for use in SOFC's because it is resistant to corrosion and oxidation.

It would be favorable to use 400 series stainless steel as taught by Carolan et al. in the SOFC of Haltiner et al. in view of Pondo because 400 series stainless steel can be stamped as required in Haltiner et al. in view of Pondo, and it is also resistant to corrosion and oxidation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the 400 series stainless steel of Carolan et al. in the SOFC of Haltiner et al. and Pondo because 400 series stainless steel is resistant to corrosion and oxidation.

6. Claims 4-7 and 18-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Haltiner et al. in view of Pondo as applied to claims 3 and 17 above, and in further view of James et al. (US Patent Number 5,766,789 A).

The teachings of Haltiner et al. and Pondo discussed above are incorporated herein.

Haltiner et al. in view of Pondo teach the use of an electrically conducting interconnect. Haltiner et al. in view of Pondo fail to teach the use of a flexible material such as a screen for those interconnects.

James et al. teach the use of a screen as a flexible material for an interconnect (column 3 lines 24-26). James et al further teach a compound containing mostly (76%) nickel for the formation of the screen used as the current collector in the anode.

By forming the current collector of Haltiner et al. in view of Pondo with the screen of James et al., a current collector made from a flexible, electrically conductive material is made.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the current collector of Haltiner et al. in view of Pondo

with the screen of James et al. in order to make a flexible, electrically conductive current collector.

Response to Arguments

7. Applicant's arguments filed March 30, 2009 have been fully considered but they are not persuasive.

As discussed above, the rejection over Thomas et al. is withdrawn.

On page 3, Applicant states that "Haltiner teaches directly away from the claimed feature of the stamped separator plate having an outer edge and at least one oxygen manifold collar displaced in an upward direction and the stamped frame having an outer edge and at least one hydrogen manifold collar displaced in a downward direction."

The examiner has read the passage from Haltiner et al. provided on page 3 of the Remarks and is unable to determine where Applicant's basis for this statement is found. On the second line of page 3, it is restated from Haltiner et al. that the parts "do not require any forming operations such as folding or dishing." The examiner assumes this is what makes Applicant state that Haltiner et al. teach away from the claimed invention, but is not convinced that Haltiner et al. do, in fact, teach away. The passages states only that the parts *do not require* forming operations, not that forming operations *cannot be performed* on the parts.

Beginning on page 5, Applicant discusses the teachings of Pondo, which are used in the above rejection to show the claimed limitations at issue.

In the middle of page 5, Applicant alleges that Pondo, specifically in Figure 4 and at column 6 lines 58-64, teaches a stack of flat parts to form the manifold collar. The examiner agrees that Pondo teaches a stack of flat parts; however, the examiner contends that, contrary to Applicant's statement at the bottom of page 5, Pondo does teach a manifold collar formed by displacing the separator plate in an upward direction and the frame in a downward direction.

Applicant is directed to Pondo at Figures 1, 2B, 3B, and 5. Figure 2B is a depiction of the cross section of the separator plate through line II-II, or through the manifold collar (column 4 lines 23-25). It is clear from Figure 2B that the separator plate and frame on either side of the seal materials are bent in an upward and downward direction.

Figures 3B and Figure 5 best show that Pondo does, in fact, teach a bent plate and not, as Applicant alleges, simply a stack of flat parts. It is clear from Figure 3B that the plate (10) is bent such that it forms different steps (25, 27, 28). In Figure 5, those steps are depicted as being on the outside of the "flat parts" referenced by Applicant.

The "flat parts" are also seen in Figure 3B, and Figure 4. The "flat parts" are contained within the bent steps of the plate (10). Thus, the manifold collar is formed by displacing separator plates on opposite sides of the seal, or a separator plate and frame, in an upward and downward direction, respectively.

Therefore, the rejection over Haltiner et al. in view of Pondo is upheld. The arguments concerning the deficiencies of Carolan et al. and James et al. are moot since

the limitations those references are alleged not to teach are taught by the rejection over Haltiner et al. in view of Pondo.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alix Elizabeth Echelmeyer whose telephone number is (571)272-1101. The examiner can normally be reached on Mon-Fri 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795

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